

# Clarke County

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## **PLANNING COMMISSION REGULAR MEETING MINUTES 2011 May 6**

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, 2011 May 6.

Chair Ohrstrom called the meeting to order at 9:03 a.m.

### **ATTENDANCE**

**Present:** George Ohrstrom, II; Chair; Anne Caldwell, Vice Chair; Clay Brumback, A.R. Dunning, Jr., Tom McFillen, Bev McKay, Cliff Nelson, Chip Steinmetz, Richard Thuss, and Bob Wade  
**Absent:** Scott Kreider  
**Staff present:** Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator, and Debbie Bean, Recording Secretary

### **APPROVAL OF AGENDA**

The Commission voted unanimously to approve the agenda with the exception of moving item #4 before item #3.

**Yes:** Caldwell (moved), McFillen (seconded), Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback, Dunning, Kreider, and McKay

### **APPROVAL OF MINUTES**

The Commission voted unanimously to approve the briefing meeting minutes of 2011 March 29.

**Yes:** Caldwell, McFillen (seconded), Nelson (moved), Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback, Dunning, McKay, and Kreider

Commissioner Brumback entered the meeting.

The Commission voted unanimously to approve the regular meeting minutes of 2011 April 1 with a few grammatical corrections.

**Yes:** Brumback, Caldwell (moved), McFillen (seconded), Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Dunning, Kreider, and McKay

### **MAJOR SUBDIVISION - PUBLIC HEARING**

**H. Robert Showers, Attorney for Salvation Army (Ron Mislowsky, Engineer, PHR&A Agent) requests approval for a 22-lot subdivision for Tax Map Parcels 13-((A))-13 [6 tracts] and 13-((A))-56 located at 642 Westwood Road, Russell Election District, zoned Agricultural Open-Space-Conservation (AOC). S-08-01**

Mr. Russell explained this request. He said that at the April meeting the Planning Commission postponed action and continued the public hearing on this proposal. He stated that there were some issues that needed to be addressed from questions that arose at the meeting, he said:

- the applicant should provide a karst plan for the proposed subdivision due to the severity of karst conditions on the property,
- the applicant should conduct a resistivity test for the proposed roads due to sinkholes in and along the proposed roads,
- the applicant should, by legal instrument, prohibit the proposed lots from utilizing the private access easement from the property line of the subject property to Route 7,
- the applicant should clarify the note on Lot 22 (71 acres) stating that it is for public school use.

He said that in addition to the requests by the Planning Commission, which had not been formally approved from the applicant's prior plat submittal in 2007, be reviewed under the County's new stormwater management regulations by Chester Engineers and also that the applicant provide an erosion and sediment control plan. He stated that the proposed private access easement off Triple J Road be reviewed and approved by Chester Engineers. He said the applicant would need to submit a Consumer Disclosure Statement. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Commissioner McKay entered the meeting.

John Farrell, McCandlish & Lillard, legal counsel representing the Salvation Army, was present and stated that he had just delivered the deed of dedication with road maintenance agreement for the private access easement and quit claimed the subject properties right to the old easement leading to Route 7 to Mr. Russell. He stated that the applicant had also stated that they would remove or retain the note, depending on the wishes of the Commission, regarding the 71-acre Lot 22 parcel stating that it is for future public school use. He said that the applicant has agreed to do a karst plan but stated that a resistivity test for the residential lots and the roadways would be cost prohibitive for them. He stated that the plans for the public road were approved in 2008 and it is good until 2013. He said that the stormwater management plan has been forwarded to Chester Engineers for their review under the County's most recent stormwater regulations.

Commissioner Caldwell asked Mr. Farrell if the issue regarding the resistivity testing has been resolved. Mr. Farrell said that the cost of having a resistivity test done is daunting and the issue is the amount of money it will take to have this achieved. She said that she is particularly interested in the resistivity testing along the road where there may be a possibility of sinkholes.

Commissioner McKay stated that the School Board has written a letter to the Salvation Army asking them if they are going to renege on the gifted offer of 71 acres to the school. He asked Mr. Farrell if they have decided what they are going to do. Mr. Farrell stated that they have not made a decision. Commissioner McKay asked if he knew when a decision would be made. Mr. Farrell stated that he does not know.

Commissioner Wade asked Mr. Farrell to suggest to the Salvation Army about putting the remainder of the property into conservation easement. Mr. Farrell said he would discuss this with his client.

Mr. Farrell said that a representative of the applicant was not present at the Subdivision Committee meeting held after the last Commission meeting because the applicant had not been informed of the meeting. Chair Ohrstrom stated that he was sorry they were not notified and that in the future they will be advised of any meetings. Mr. Russell said the meeting was posted on the County web site.

Commissioner Thuss asked Mr. Russell to state what items are currently owed on this request before the Planning Commission makes a final decision. Mr. Russell stated that since he just received information from Mr. Farrell this morning regarding some of the issues on this request it is difficult to say which items are needed until he has time to review the information he has received.

There being no further public comments, Chair Ohrstrom called for a motion.

The Commission voted to postpone action and continue the public hearing until the next Planning Commission meeting on 2011 June 3.

**Yes:** Brumback, Caldwell (moved), McFillen (seconded), McKay, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Dunning and Kreider

### **MINOR SUBDIVISION**

**Hardesty Properties, LLC (Danny and Mary Hardesty, Agents) request approval for a two-lot subdivision for Tax Map 2-((A))-10, located in the 1200 block of Fishpaw Road, Russell Election District, zoned Agricultural-Open Space-Conservation (AOC) MS-11-03**

Mr. Russell explained this request. He said that the applicant is requesting final plat approval of a minor subdivision. He stated that the Health Department has reviewed and approved the primary and reserve drain field site for Lot 1 and well location. He said a resistivity test has been conducted and approved by the County's consultant geotechnical engineer, Dan Rom. He stated that the applicant proposes a private access easement through the parent tract to Lot 1. He said that VDOT has approved the entrance. Commissioner Nelson stated that he visited the site and saw no problems. After discussion with staff and the Commission Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request on condition the applicant provides a deed of dedication and a road maintenance agreement.

**Yes:** Brumback, Caldwell, McFillen, McKay, Nelson (moved), Ohrstrom, Steinmetz, Thuss and Wade (seconded)

**No:** No one

**Absent:** Dunning and Kreider

### **TEXT AMENDMENT – RESET PUBLIC HEARING**

**The Clarke Planning Commission will consider the amendment of the County Zoning Ordinance: Section 3-E-3-e, Certificates of Appropriateness (in Historic Overlay Districts), so as to require the review of changes to the roof or windows of contributing buildings (in addition to changes that require a Building Permit) to be reviewed by the full Historic Preservation Commission instead of the Commission's Executive Committee. The changes also edit the sections for clarity and to specifically state that the public hearing notice requirements shall follow the requirements for all other public hearings, as described in Zoning Ordinance section 10-E.**

**Section 3-E-3-f, Appeals, which references Virginia Code Section 15.2306, which allows the demolition of an historic structure if it is offered for "a price reasonably related to its fair market value", so as to define this phrase as meaning a price within 20% of the current property value assessed by the Clarke County Commissioner of the Revenue. TA-11-03**

Mr. Johnston explained this request. He stated that since the last Commission meeting it was brought to staff's attention that Section 3-E-3-f, Appeals, of decisions in Historic Overlay Districts references Virginia Code Section 15.2306, which allow the demolition of an historic structure it is offered for "a price reasonably related to its fair market value", and this amendment would establish a definition of this phrase. He stated that as this amendment deals with the same sections of the Zoning Ordinance concerning Historic Overlay Districts as the previously advertised amendment, it is recommended that action on the early

amendment be postponed and the amendments readvertised so as to include the additional change. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments on the first paragraph of this amendment.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this request for the next meeting of the Commission on 2011 June 3.

**Yes:** Brumback, Caldwell (moved), McFillen, McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

**No:** No one

**Absent:** Dunning and Kreider

#### **TEXT AMENDMENT – SET PUBLIC HEARING**

**The Clarke Planning Commission will consider the amendment of the County Zoning Ordinance, Section 9-B:**

**Definition of the term “Companion Animal”, which states that “Agricultural animals” are not considered Companion Animals, so as to replace the term “Agricultural animals” with “Livestock animals”;**

**Definition of the term “Animal Shelter”, so as to add Livestock Animals as a type of animal that can be kept at an Animal Shelter, and**

**Definition of the term “Livestock” to correct the identification of the types of animals considered livestock, specifically bovine (cattle), equine (horses), caprine (goats), ovine (sheep), and porcine (swine). TA-11-04**

Mr. Johnston explained this request. He stated that after discussing this amendment with the Zoning Administrator several issues were considered and as a result he believes this should not move forward. He stated that the Humane Foundation was interested in housing livestock animals at the animal shelter facility off of Ramsburg Lane, which is located in the AOC zoning district. He said that after discussing this matter with Mr. Russell they have determined a property owner does not need to seek approval of a Special Use to have livestock on AOC or FOC property. He said that the owners of the animal shelter property should determine whether livestock is to be kept on this property. He recommended that this amendment and the following amendment be withdrawn at this time.

The Commission voted unanimously to withdraw this amendment per recommendation of staff.

**Yes:** Brumback (moved), Caldwell, McFillen, McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

**No:** No one

**Absent:** Dunning and Kreider

#### **SPECIAL USE AND SITE PLAN AMENDMENT – SET PUBLIC HEARING**

**Clarke County Humane Foundation requests amendment of the Special Use Permit (so as to include not more than 8 livestock animals) and the Site Plan (so as to modify accessory improvements) of the Clarke County Animal Shelter, located at 225 Ramsburg Lane, Tax Map Parcel 13-A-13A, Russell Election District, zoned Agricultural-Open Space-Conservation (AOC). SUP-06-01 (2011)**

Mr. Johnston stated after reviewing the above amendment with the Zoning Administrator several issues were considered and as a result he believes this should not move forward. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to table this amendment per recommendation of staff.

**Yes:** Brumback (moved), Caldwell, McFillen, McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

**No:** No one

**Absent:** Dunning and Kreider

### **Board/Committee Reports**

Board of Supervisors

Mr. Johnston said no land use items were on the BOS Agenda. The Board held a public hearing and took action on the changes to the local election district boundaries.

Mr. Dunning entered the meeting.

Sanitary Authority

Commissioner Dunning stated that the Authority is still working on replacing the water tower north of Millwood and may have to condemn property if the Authority cannot come to any conclusions with the property owner adjacent to the existing tower.

Board of Septic & Well Appeals

Commissioner Dunning said the Board had not met.

Board of Zoning Appeals

Commissioner Caldwell said the Board had not met.

Historic Preservation Commission

Commissioner Nelson stated that the next meeting of the Commission will be held at the Battletown Inn on 2011 May 17 at 11:00 a.m. followed by the annual awards luncheon. He stated that the second meeting of the Sesquicentennial Civil War Committee was held 2011 May 5. He stated that there was not a quorum for the meeting but it is moving forward. He stated if the Planning Commission would like a report on the progress of these meetings, he would be glad to provide one.

Conservation Easement Authority

Chair Ohrstrom said the Authority agreed to have a booth at the Blandy Garden Fair for public outreach.

Double Tollgate

Mr. Johnston stated that at the BOS work session on 2011 May 9 there would be a discussion on land uses in the Double Tollgate area.

### **Staff Reports**

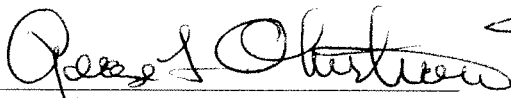
Natural Resource Activities

Ms. Teetor was not present and there was no report.

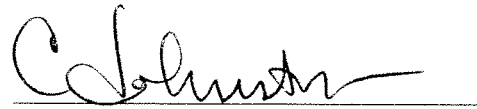
Enforcement Officer  
were reviewed.

Ms. Olin's progress reports for 2011 April 1 thru 2011 April 28

There being no further discussion, the meeting was adjourned at 10:25 a.m. until the next regular meeting of the Commission on 2011 June 3.



George L. Ohrstrom, II, Chair



Charles Johnston, Clerk

Minutes prepared by Debbie Bean, Recording Secretary